MONTANA LEGISLATIVE HISTORY

Chapter 331 1977

Bill H 765 S _____ Original bill & history ___C

H. Committee on State Administration			S. Committee on State Administration		
Hearing Date(s)	Feb 16	✓C	Hearing Date(s)	Mar 21	✓C
	Feb 19	✓C		Mar 25	✓C
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	_____	___C		_____	___C
Date Out	Feb 19	✓C		Mar 25	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LC 1340/01

INTRODUCED BY House BILL NO. 765 Durrell [redacted]

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE TEACHERS' RETIREMENT SYSTEM AND TO ENSURE FAVORABLE ADVANCE DETERMINATION FROM THE UNITED STATES INTERNAL REVENUE SERVICE WITH RESPECT TO QUALIFIED TAX STATUS; AMENDING SECTIONS 75-6201, 75-6205, 75-6206, 75-6207, 75-6208, 75-6209, 75-6212, 75-6214, AND 75-6216, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-6201, R.C.M. 1947, is amended to read as follows:

"75-6201. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Retirement system" means the teachers' retirement system of the state of Montana provided for in section 75-6202.

(2) "Retirement board" means the retirement system's governing board provided by section 82A-212.

(3) "Employer" means the state of Montana, trustees of any district, or other agency or subdivision of the state which employs a person who is designated a member of the retirement system.

(4) "Member" means any person who has an individual account in the annuity savings fund; an active member is any person included under the provisions of section 75-6209; an inactive member is any person included under the provisions of section 75-6210.

(5) "Beneficiary" means any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by the retirement system.

(6) "Service" means the performance of such instructional duties or related activities as would entitle the person to active membership in the retirement system under the provisions of section 75-6209.

(7) "Prior service" means employment of the same nature as service defined in subsection (6) of this section but rendered before September 1, 1937.

(8) "Creditable service" is that service defined by section 75-6212.

(9) "Regular interest" means interest at four per cent (4%) per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of section 75-6206.

(10) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to his individual account in

the annuity savings fund, together with interest. Regular interest shall be computed and allowed to provide a benefit at the time of retirement.

(11) "~~Earnable~~ Earned compensation" means the full rate ~~of the compensation, pay,~~ or salary ~~that would be payable to a member if he worked the full normal working time. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money~~ actually paid to a member and reported to the retirement system, including irregular forms of remuneration, such as amounts paid for special duty or under a salary reduction agreement, and amounts paid in kind, such as maintenance. The employer shall fix the value of any compensation paid in kind. The earned compensation of a member who had less than 3 consecutive years of full-time service during the 5 years preceding his retirement is the compensation, pay, or salary which he would have earned had his part-time service been full-time service. The earned compensation of a member who is awarded a disability retirement allowance prior to the completion of a full year is the compensation, pay, or salary which he would have received had he completed the full year.

(12) "Average final compensation" means the average of the ~~earnable~~ earned compensation of ~~any three (3) consecutive years on which contributions have been made by~~

the member a member during the 3 consecutive years of full-time service which yield the highest average and on which contributions have been made as required by 75-6207(1)(a).

(13) "Annuity" means the payments made to a beneficiary for life which are derived from a member's accumulated contributions. All annuities shall be paid in equal monthly installments. The retirement board may make an annual payment to the beneficiaries of the difference between the rate of interest used in calculating the benefit from the annuity reserve fund and the interest earned on investments.

(14) "Pension" means the payments made to a beneficiary for life which are paid into the pension fund derived from money accumulated by employers. All pensions shall be paid in equal monthly installments.

(15) "Retirement allowance" means the annuity plus the pension.

(16) "Annuity reserve" means the present value of all payments to be made on account of a member's annuity and computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(17) "Pension reserve" means the present value of all payments to be made on account of a pension and computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(18) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(19) "Former retirement system" means the retirement system established under sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935.

(20) "Full-time service" means service which is full-time and which extends over a normal academic year of at least 9 months. With respect to those members employed by the office of the superintendent of public instruction, any other state agency or institution, or the office of a county superintendent, "full-time service" means service which is full-time and which totals at least 9 months in any one year.

(21) "Part-time service" means service which is less than full-time or which totals less than 9 months in any one year. Part-time service shall be credited in the proportion that the actual time worked bears to full-time service."

Section 2. Section 75-6205, R.C.M. 1947, is amended to read as follows:

"75-6205. Powers and duties. The retirement board shall have the power and it shall be its duty to administer and operate the retirement system within the limitations prescribed by this Title. To this end, it shall be the duty

of the retirement board to:

(1) establish rules and regulations necessary for the proper administration and operation of the retirement system;

(2) elect a chairman from its membership;

(3) appoint a secretary who may be one (1) of its members;

(4) employ technical or administrative employees who are necessary for the transaction of the business of the retirement system;

(5) approve or disapprove all expenditures necessary for the proper operation of the retirement system;

(6) keep a record of all its proceedings which shall be open to public inspection;

(7) publish a biennial report by the first day of January of each year the legislative assembly meets that shall report in detail the fiscal transactions for the two (2) fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of the retirement system and the last fiscal year balance sheet showing the assets and liabilities of the retirement system, and submit such biennial report to the governor and furnish copies to the legislative assembly;

(8) when the retirement board deems it necessary, designate a medical board to be composed of three

physicians, who are not eligible to participate in the retirement system to investigate and report to the retirement board on all medical matters related to the administration of the retirement system;

(9) keep in convenient form that data which is necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system;

(10) designate an actuary to assist the retirement board with the technical actuarial aspects of the operation of the retirement system, which shall include establishing mortality and service tables and making an actuarial investigation at least once every five (5) years into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system;

(11) prepare an annual valuation of the assets and liabilities of the retirement system;

(12) determine the eligibility of a person to become a member of the retirement system in accordance with the provisions of section 75-6209;

(13) prescribe a form for membership application which will provide adequate and necessary information for the proper operation of the retirement system;

(14) adopt policies for the determination of creditable service in the retirement system implementing the

following guidelines:

(a) One (1) year's creditable service shall be awarded for each year of full-time service, outside of vacation periods, but no more than one (1) year's creditable service shall be awarded for service during the same school fiscal year.

~~(b) A proportion of a year's creditable service shall be allowed for part-time service. An equitable proration of a year's creditable service shall be awarded for part-time service.~~

~~(c)~~[b] Not more than one (1) month's creditable service shall be awarded for one (1) or more continuous months of absence without pay.

(15) grant retirement, disability, and other benefits under the provisions of section 75-6208;

(16) annually determine the rate of regular interest as prescribed in section 75-6206;

(17) establish and maintain the funds of the retirement system in accordance with the provisions of section 75-6207; and

(18) perform such other duties and functions as are required to properly administer and operate the retirement system."

Section 3. Section 75-6206, R.C.M. 1947, is amended to read as follows:

"75-6206. Financial administration of moneys. The retirement board shall be the trustees of all moneys collected for the retirement system and as such trustees they shall provide for the financial administration of the moneys in the following manner:

(1) The moneys shall be invested and re-invested by the state board of of investments.

(2) The retirement board annually shall establish the rate of regular interest.

(3) The retirement board annually shall divide among the several funds of the retirement system an amount equal to the average balance of such funds during the preceding fiscal year multiplied by the rate of regular interest. In accordance with the provisions of subsection (3)(e) of section 75-6207, the amount to be credited to each fund shall be allocated from the interest and other earnings on the moneys of the retirement system actually realized during the preceding fiscal year, less the amount allocated to the expense fund under the provisions of subsection (5)(b) of section 75-6207.

(4) The state treasurer is the custodian of the collected retirement system moneys and of the securities in which said moneys are invested. All expenditures from such moneys shall be made only upon claims signed by two (2) persons designated by the retirement board. A properly

attested copy of a resolution of the retirement board designating such persons and bearing on its face specimen signatures of each person shall be filed with the department of administration as his authority for approving such claims.

(5) Except as herein provided no member of the retirement board nor any of its employees shall have an interest, direct or indirect, in the gains or profits of any investment of moneys of the retirement system. No member of the retirement board nor any of its employees shall directly or indirectly for himself or as an agent in any manner use the moneys or deposits of the retirement system except to make such current and necessary expenditures as are authorized by the retirement board. No member of the retirement board nor any of its employees shall become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the retirement system.

(6) The retirement board may in its discretion transfer the amount in the annuity savings account of an inactive member to the pension accumulation fund if the account has been dormant for a period of seven (7) years. No right of the member shall be jeopardized by such transfer and the amount shall be transferred back to the member's annuity savings account upon his request.

(7) All the funds established by section 75-6207,

except the expense fund, shall be accounts in the agency fund of the treasury fund structure of the state. The expense fund shall be an account in the earmarked revenue fund of the same treasury fund structure.

~~(8) The assets of the retirement system may not be used for or diverted to any purpose other than for the exclusive benefit of the members and their beneficiaries and for paying the reasonable expenses of administering the retirement system.~~

~~(9) Upon termination of the retirement system, termination of employment of a substantial number of members which would constitute a partial termination of the retirement system, or complete discontinuance of contributions to the retirement system, the retirement allowance accrued to each member directly affected by such occurrence becomes fully vested and nonforfeitable to the extent funded.~~"

Section 4. Section 75-6207, R.C.M. 1947, is amended to read as follows:

"75-6207. Method of financing. The retirement board shall establish and maintain the following funds in which all of the assets of the retirement system shall be credited according to the purpose for which the assets are held.

(1) Annuity savings fund. The annuity savings fund shall be a fund in which the contributions from the members

to provide for their annuities shall be accumulated in individual accounts for each member. Contributions to and payments from the annuity savings fund shall be made in the following manner.

(a) Each employer shall deduct from the compensation of each active member on each and every payroll of such member for each and every payroll period on and subsequent to the date on which such member became a member an amount equal to six and one-eighth percent (6 1/8%) of such member's ~~earnable~~ earned compensation; ~~but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty (60) and rendered thirty (30) years of creditable service if such member elects not to contribute.~~

(b) Such deductions shall be made notwithstanding that the minimum compensation provided by law for a member may be reduced thereby. Every member shall be deemed to consent and agree to the deductions prescribed by this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by the retirement system.

(c) In addition to the contributions deducted from compensation and subject to the approval of the retirement

board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to ~~the~~ any accumulated contributions ~~which he has previously withdrawn~~ plus interest in the amount the contributions would have earned had the contributions not been withdrawn~~, or any part thereof, which he had previously withdrawn~~. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death shall be paid from the annuity savings fund~~, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the pension accumulation fund~~. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

(2) Annuity reserve fund. The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

(3) Pension accumulation fund. The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

(a) Each employer shall pay into the pension accumulation fund an amount equal to six and one-fourth percent (6 1/4%) of the ~~earnable~~ earned compensation of each member employed during the whole or part of the preceding payroll period.

(b) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of section 75-7204.

(c) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system or the Montana state deaf and blind school, the legislative assembly shall appropriate to each employer an adequate amount to allow the payment of the employer's contribution.

(d) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption

of a county budget and for payments under such budget.

(e) All interest and other earnings realized on the moneys of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, and the annuity reserve fund shall be transferred to the respective funds from the pension accumulation fund.

(f) All pensions and benefits in lieu thereof, including pensions payable under section 75-6218, shall be paid from the pension accumulation fund.

(g) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

(4) Expense fund. The expense fund shall be the fund to which shall be credited all moneys for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances or other benefits. The retirement board shall determine annually the amount required for the expense fund to defray the administrative expense in the ensuing fiscal year and shall credit such an amount to the expense fund out of the

pension accumulation fund from interest and other earnings realized on the moneys of the retirement system."

Section 5. Section 75-6208, R.C.M. 1947, is amended to read as follows:

"75-6208. Benefits. The retirement, disability and other benefits of the retirement system shall be granted on the basis of the following provisions:

(1) Superannuation member retirement:

(a) ~~Any~~ A member ~~with five~~ who has at least ~~(5)~~ full years of creditable service, ~~the~~ whose last ~~five (5)~~ years of ~~which shall have been~~ creditable service were in this state, and who has attained the age of ~~sixty (60),~~ or who has ~~completed thirty~~ been credited with full-time or part-time service totaling at least ~~(30)~~ years ~~of creditable service,~~ may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

(b) Any member in service who has attained the age of seventy (70) years during any school year shall be retired on the first day of September following his seventieth birthday, except that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy (70) upon the recommendation of the president of the employing unit to the board of regents. Members over seventy (70) years of age

shall not: (1) be allowed creditable service for services rendered after the end of the school year in which the age of seventy (70) is attained, (2) contribute to the retirement system after the end of such school year, and (3) have the compensation received after the end of such school year used in computing average final salary. Initial employment of teachers in the Montana university system beyond the age of seventy (70) may be made upon the recommendation of the president of the employing unit and the approval of the board of regents but such employees shall be denied membership in the retirement system.

(c) Any retired member may be employed as a part-time or substitute teacher in Montana and may earn, without loss of retirement benefits, the greater of an amount not to exceed one-fourth ~~(1/4)~~ of his average final compensation ~~without loss of retirement benefits~~ and one-fourth of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board.

(2) Allowance for superannuation retirement. Upon superannuation retirement a member shall receive a retirement allowance ~~which shall consist~~ consisting of:

(a) A pension which, together with an annuity, ~~shall provide~~ provides a retirement allowance equal to ~~one-half (1/2) of his average final compensation provided his~~

~~creditable service is at least thirty (30) years, otherwise a pension together with his annuity of one-sixtieth (1/60)~~ one-sixtieth of his average final compensation multiplied by the number of years of creditable service.

(b) The minimum annual retirement allowance for a member who has ~~completed thirty (30)~~ or more years of creditable service shall be twenty-four hundred dollars ($2,400) and the minimum retirement allowance for a member whose creditable service is less than thirty (30) years shall be based on the proportionate amount of twenty-four hundred dollars ($2,400) that his service bears to thirty (30) years of service.

~~(c) On July 1, 1975, and July 1, 1976, every beneficiary receiving a retirement allowance shall be entitled to an increase in his monthly retirement allowance of one-fourth of one percent (.25%) multiplied by the number of months he has been retired during the preceding fiscal year.~~

~~(d)~~(c) Any member who has completed five (5) years of creditable service, the last five years of which shall have been in this state, and who has attained the age of fifty-five (55) may retire from service and be eligible to an early retirement allowance if he files with the retirement board his written application setting forth the fact of his retirement. The early retirement allowance

shall be determined as prescribed in subsections (a) through (f) above, with the further provision that such allowance will be reduced by one half of one percent (.5%) multiplied by the number of months which the retirement date precedes the date on which he would have retired had he attained sixty (60) years of age or had he completed thirty (30) years of creditable service.

~~(e)~~[d] In the event of death of a member after retirement, a death benefit of five hundred dollars ($500) will be payable to his designated beneficiary.

~~(f)~~[e] In the event payments made to an annuitant do not equal the amount of the member's accumulated contributions prior to the annuitant's death, the difference between the total retirement allowance paid and the amount of the accumulated contributions shall be paid to the beneficiary.

(3) Disability member retirement:

(a) Upon the application of an active member or of his employer, any active member who has five (5) or more years of creditable service may be retired by the retirement board the month immediately following the month in which his disability caused his retirement upon filing an application for a disability retirement allowance. Before any member shall be eligible for a disability retirement, the board of the retirement system shall certify that he is mentally or

physically incapacitated for the further performance of his duties, that such incapacity is likely to be permanent and that he should be retired.

(b) Re-examination of beneficiaries retired on account of disability. Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three (3) year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty (60) to undergo a medical examination by the medical board or a physician or physicians designated by the medical board. The examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty (60) refuse to submit to at least one (1) medical examination in any year by the medical board or its representative, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his disability pension may be revoked by the retirement board.

(c) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his

average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be changed later, the amount of his pension may be further modified but the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

(d) Should a disability beneficiary under age sixty (60) be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, and he shall again become an active member of the retirement system. Any prior service certificate on the basis of which his service was computed at the time of his disability retirement shall be restored to full force and effect an addition upon his subsequent retirement, and he shall be credited with all his subsequent service as a member. Should he be restored to active service on or after the attainment of the age of fifty-five

(55) years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new member.

(4) Allowance for disability retirement. Upon retirement for disability, a member shall receive a superannuation allowance prescribed under subsection (2) above if he is eligible; otherwise he shall receive a disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement.

(b) A pension which together with his annuity, shall provide a total retirement allowance equal to one sixtieth (1/60) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (1/4) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (1/4) of his average final compensation, provided, however, that no such allowance shall exceed one sixtieth (1/60) of his average final

compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumulated contributions prior to his death, the difference between the total retirement allowance paid and the amount of the accumulated contributions of the member shall be paid to the beneficiary.

(5) Withdrawal of accumulated contributions. Any inactive member electing to do so or any person whose membership terminates may withdraw his accumulated contributions to his annuity account in the retirement system in accordance with the following provisions:

(a) An inactive member under the provisions of subsections (1) or (3) of section 75-6210 may elect, without right of revocation to withdraw his accumulated contributions, and if he does not withdraw his accumulated contributions he shall thereafter remain an inactive member of the retirement system with the right to qualify for the benefits of the retirement system;

(b) Upon recovery from a disabling illness or separation from the armed forces, any person qualifying as an inactive member under the provisions of subsection (2) of section 75-6210 may withdraw his accumulated contributions

unless he returns to active membership.

(c) Any person whose membership terminates under the provisions of subsection (4) of section 75-6211 may withdraw his accumulated contributions.

(6) Allowances for death of member.

(a) Should a member die before retirement the amount of the member's accumulated contributions shall be paid to his estate or such person as he may have designated in the manner prescribed by the retirement board which shall be filed with the board prior to the member's death.

(b) In lieu of benefits provided in (a) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. The monthly life annuity shall be determined as prescribed in subsections (2) (a) through (2) (h) assuming the member had elected option A as prescribed in subsection (7) (a) below. In addition, if the deceased member had five (5) or more years of creditable service and was an active member in the state of Montana within one (1) year prior to his death, a lump sum death benefit of $500 will be payable to his designated beneficiary.

(c) If the a deceased member had five (5) or more years of creditable service and was an active member in the state of Montana within one (1) year prior to his death or

was retired at the time of his death, the sum of one hundred dollars ($100) per month shall be paid to each minor child of the deceased member until such child reaches his eighteenth (18th) birthday.

(7) Optional allowances. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided. This benefit shall be referred to as the normal form of retirement allowance. In lieu of normal form of retirement allowance, the member may elect an optional allowance which would be the actuarial equivalent at the time of his retirement or disability allowance and would provide an allowance payable throughout his lifetime and upon his death continue to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement with the provision that:

(a) Option A. The optional allowance will continue to the member during his lifetime and upon his death, continue throughout the lifetime of his designated beneficiary; or

(b) Option B. The optional allowance will continue

throughout his lifetime and upon his death, one-half (1/2) of his optional allowance will be continued throughout the lifetime of his designated beneficiary; or

(c) Option C. The optional benefit will continue throughout his lifetime and upon his death, two-thirds (2/3) of the optional allowance shall be continued throughout the lifetime of his designated beneficiary; or

(d) Option D. The optional allowance shall continue while both the member and his designated beneficiary are living and upon the death of either, one-half (1/2) of the optional allowance shall be continued throughout the lifetime of the survivor; or

(e) Option E. The optional allowance will be payable while both the member and his designated beneficiary are living and upon the death of either, two-thirds (2/3) of the optional allowance shall be continued throughout the lifetime of the survivor; or

(f) Option F. Some other benefit or benefits shall be paid either to the member or his surviving designated beneficiary. The provisions of this retirement allowance shall be approved by the retirement board.

(8) There may not be any duplication of benefits to a member or beneficiary due to there being more than one period of service of the member."

Section 6. Section 75-6209, R.C.M. 1947, is amended to

read as follows:

"75-6209. Active membership. Any of the following persons shall be active members of the retirement system unless otherwise provided by this Title, except for those persons who became eligible for membership on the first day of September, nineteen hundred and thirty-seven (1937) or on the first day of September, nineteen hundred and thirty-nine (1939) and who elected not to be a member under the provisions of the law at that time:

(1) Any person who is a teacher, principal or district superintendent as defined under the provisions of section 75-6101.

(2) Any person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system.

(3) Any person employed in an instructional services capacity by the office of the superintendent of public instruction, the office of a county superintendent, a public institution of the state of Montana, the Montana state deaf and blind school, or a district.

(4) Any person who shall have elected not to become a member of the retirement system and is re-entering service in a capacity prescribed by subsections (1), (2) and (3) above.

(5) Any person who shall have elected not to become a

member of the retirement system, who has been continuously employed in a capacity prescribed by subsection (1), (2) or (3) above since the time of such election and who may thereafter elect to become a member of the retirement system.

Any person who is designated a member by this section shall be employed ~~full-time, outside of vacation periods,~~ in the capacity prescribed for his eligibility~~; except that when a person is employed less than full time, the retirement board may allow such person to become a member of the retirement system~~ for at least 30 days in any fiscal year. The compensation for the creditable service of any person who is designated a member by this section shall be totally paid by an employer as defined herein~~, except that when this requirement is not satisfied, the retirement board may allow such a person to become a member of the retirement system~~. At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his eligibility for membership. All persons in similar circumstances shall be treated alike."

Section 7. Section 75-6212, R.C.M. 1947, is amended to read as follows:

"75-6212. Membership application and creditable service. Whenever a person becomes ~~eligible for membership in~~ a member of the retirement system as required by 75-6209,

he shall ~~apply for such membership on the~~ complete an application form prescribed by the retirement board. The creditable service of a member ~~shall begin~~ begins on the ~~receipt of the membership application by the retirement board~~ date of his employment in a capacity prescribed for his eligibility in 75-6209 and ~~shall accumulate~~ accumulates to the member's credit on the basis of the retirement board's policy governing creditable service.

The creditable service of any member shall include the following:

(1) each year of service of a member for which contributions to the retirement system were deducted from his compensation under the provisions of chapter 87, Laws of 1937, chapter 215, Laws of 1939, this act, and their subsequent amendments, except that no credit shall be awarded for those years of service for which the contributions have been withdrawn and not replaced; plus

(2) any out-of-state employment service awarded by the retirement board under the provisions of section 75-6213; plus

(3) any service awarded by a prior service certificate issued under the provisions of chapter 87, Laws of 1937, chapter 215, Laws of 1939 and their subsequent amendments, or under the provisions of section 75-6213; plus

(4) the creditable service established by the

retirement board under the provisions of this section shall be final and conclusive for the purposes of the retirement system unless, at any time, the retirement board discovers an error or fraud in the establishment of the creditable service, in which case the retirement board shall re-establish the creditable service; plus

(5) any service awarded for employment while on leave under section 75-6213."

Section 8. Section 75-6214, R.C.M. 1947, is amended to read as follows:

"75-6214. Duties of employer. It shall be the duty of each employer to:

(1) deduct the contribution of each member employed by him at the rate prescribed by subsection (1) of section 75-6207 from each salary payment for each payroll period, and transmit the contribution each month to the secretary of the retirement board;

(2) pay to the secretary of the retirement board the employer's contribution prescribed by subsection (3) of section 75-6207 at the time that the employee contributions are transmitted to the secretary of the retirement board;

(3) keep records and, as required by the retirement board, furnish information to the retirement board that is required in the discharge of the retirement board's duties;

(4) upon the employment of any person who is required

to become a member of the retirement system, inform him of his rights and obligations related to the retirement system. Each person accepting such employment shall be deemed to consent to membership and to the withholding of the contributions from his compensation;

(5) at the request of the retirement board, certify the names of all persons who are eligible for membership or are members of the retirement ~~board~~ system; and

(6) notify the retirement board of the employment of a person eligible for membership and forward his membership application to the retirement board."

Section 9. Section 75-6216, R.C.M. 1947, is amended to read as follows:

"75-6216. Guarantee by state. Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves in the annuity reserve fund ~~and of pension reserves in the pension reserve fund~~ as provided for in this Title and the payment of all annuities, pensions, refunds, and other benefits granted under the retirement system are hereby made obligations of the state of Montana."

Section 10. Effective date. This act is effective on its passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 607-77

FISCAL NOTE

Form BD-15

ompliance with a written request received March 4, 19 77, there is hereby submitted a Fiscal Note
House Bill 765 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.
kground information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
he Legislature upon request.

ESCRIPTION OF PROPOSED LEGISLATION:

n act to generally revise the laws relating to the Teachers' Retirement System and to ensure favorable advance determin-
ion from the United States Internal Revenue Service with respect to qualified tax status.

ISCAL IMPACT:

he actuarial consultant for the Teachers' Retirement System states that one aspect of the bill will affect the payout of
e System. This is the additional cost to the System of $100 per month child benefit allowed upon the death of a
etired or disabled member. It is further stated that this cost will be minor and that the increase can be absorbed within
he current funding level.

Richard A. Ismay

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 3-15-77

and 10% above that. I would discourage government from giving them a deal like that. CURTISS-You will always find abuse. WINSOR-I am sure the state's competitive bidding laws would prevail. Cost-plus is mostly a federal deal.

965

HB 756-Rep. Driscoll, sponsor--This is a attempt to make some minor changes in the teachers' retirement system. I checked with Owen Morris - and it turns out there would be very little fiscal impact. The bill gives definitions of full time and part time service, which have been changed; plus a half dozen other amendments. This is at the request of Owen Morris, so it would be more acceptable to IRS.

OWEN MORRIS, Administrator, Teachers' Retirement System, Department of Administration--The purpose for the changes is to allow us to obtain favorable advance determination from IRS for qualified tax status. Page 3, line 4 expands the definition of earned compensation - such as amounts paid in kind -- the value of these would be determined by the employer. It also expands the definition of average final compensation -- rather than 3 consecutive years, IRS says the 3 consecutive years which yield the highest average. This bill leaves no room for discretionary foolishness. Page 17 has nothing to do with qualification status. Presently, retired people can return to part time and receive 2/3 credit. With this bill, a retired member may be employed as a part time or substitute teacher and may not earn more than 1/4 of the value members received in the previous year. Presently, upon the death of an active member, we pay the beneficiary through the age of 18. This didn't include disability. Page 25, line 1 - upon the death of any member with minor children, we will pay $100 a month.

ALTON HENDRICKSON, Actuary for state retirement systems--There will be no additional cost to the system. The fact that the plan has always been interpreted as being qualified by IRS has never given it qualification. The ultimate result will be a letter of qualification. The biggest concern is that the plan not be discriminatory. The importance of having the plan qualified is that it will have no surprises or tax disadvantages in the future.

DRISCOLL-I want an amendment on page 16, line 14 - (see committee report)

KROPP-How many teachers are we talking about. MORRIS-A considerable number. We have requests every day from teachers who wish to receive credit. TURNER-Why don't we know how many teachers, and why doesn't it cost? HENDRICKSON-Credit has always been given for part time work. This just allows the teacher to retire before 60 if they have been teaching for over 30 years. They would, of course, have less service credit. That is one of the major factors, but this isn't a new provision. Part time teachers have always received credit. They make the same contributions.

HB 400-Rep. Harper, sponsor--The first resolution you heard today sets the stage for this - the amount of tax money that private industry can contribute. This isn't a new concept. It keeps coming back if it doesn't pass because it is a legitimate concept and this time it is urgent. The funding of schools, except the foundation program, is done with property taxes. In areas where large amounts of employment and land are state-connected, the tax base is lost because the state properties are tax exempt. So, people in areas like Helena pick up the burden in property taxes. Not only do we lose that part of our tax base, but the state picks up fire and police protection off our property taxes. The Helena schools are overcrowded, in rotten condition, and the teachers are very low paid. Our bonds have just been turned down. This won't go away. There's no fiscal note as yet.

HB 765-O'Connell moved to accept the amendments (see attachment #4), and the motion carried unanimously. O'Connell moved AS AMENDED DO PASS, with Mular seconding; the motion carried with Smith voting no.

HB 686-Kropp moved DO NOT PASS, seconded by Turner.

Mular made a substitute motion of DO PASS, with O'Connell seconding.

KROPP-I'm tired of studies, and I think it should be the problem of the people. MULAR-In order to get a law mandating the study, we have to have a bill. Most communities have the money to do this. We are asking no more than a rancher who has hail damage and can't bail himself out. These people have insurance claims. There are no mechanics in the present law to do the necessary things to take care of this. The money expended for saline seepage was high. Gunderson had a hail damage bill, and urban people supported it. FEDA-The state can't afford to keep up the hail insurance. Flood insurance is a lousy set-up, and I am opposed. SMITH-Both of my houses flood, and we take care of them.

Mular's substitute motion failed 9 - 2 (O'Connell and Mular being the 2). So Kropp's original motion of DO NOT PASS came up, and passed 8 - 3.

HB 587-Feda moved to accept the amendments, with O'Connell seconding, and the motion carried unanimously. O'Connell moved AS AMENDED DO PASS, Kanduch seconded, and the motion carried with Mular, Ryan, Smith and Lien voting no.

HB 63-Mular moved DO PASS, Feda seconded and the motion carried unanimously.

HB 565-O'Connell moved DO PASS, Ryan seconded, and the motion carried with Smith and Kropp voting no.

HB 515-Feda moved DO NOT PASS, Kropp seconded and the motion carried with Ryan voting no.

HB 534-BRAND-I held this to get some information on the last study. (He read a letter from Bob Lohn - see attachment #5)The Attorney General has said that he will take the corrections sections of Institutions, and he isn't opposed to the bill. FEDA-I would like to see this on the floor. RYAN-I am part of this, and it is beyond me that anyone would think you could abolish Institutions and add it to SRS - which is already a monster. I have no argument with abolishing Institutions, but I want SRS cleaned up. We have hired people and they aren't doing their jobs. A man going into Probation & Parole would think he could eventually get to be Director, but all of our administrators come from out of state. LIEN-Executive reorganization hasn't done what it was supposed to. ROBBINS-I agree we have a mess in both of them, and if we get them together it would be easier. BRAND-Something has to be done to stop this. No one is getting helped, and state people are just trying to keep their jobs. KROPP-There's a new Director in Institutions, and I think we should give him a chance. Throwing them together might be a mistake. MENAHAN-The people in that department are afraid to do anything. Everybody tattles on somebody else. In the last strike at Warm Springs the workers appealed and appealed and finally struck, went to court and won. They do a lousy job of running things. LIEN-I will vote for this, but I don't know what it will do except shake them up. KROPP-How do we help by dumping Institutions into SRS? O'CONNELL-At least we are doing away with one department and can have them all under one roof - so they can be dealt with better. FEDA-This way at least they can't shuffle you around.

Mr. Woodgerd stated there is no affect on it.

Chairman Towe stated the figure on page 5 (7%) if the other bill passes this will jump to 11% for the employer. Employee contributions will stay the same.

Tom Schneider stated the bill does not take money out of other funds. If a game warden is paid out of anything but earmarked revenue funds then he is ineligible for the retirement system. If the employee is paid out of earmarked funds then employee contributions will come out of earmarked funds.

Senator Devine stated the difference of 11% and 7% is 4%. Where does that come from.

Mr. Schneider stated that comes totally out of earmarked funds and forfeitures.

Hearing closed on House Bill 741.

CONSIDERATION OF HOUSE BILL 765.

Representative John Driscoll, District 91, is the chief sponsor of this bill. This bill consists of two parts. (1) Effort on the part of the Teachers' Retirement System to bring this up to snuff so that this will continue in its priviledged exempt status. (2) Page 16 - this is his main purpose of introducing the bill. Lines 9 - 17 you will find language for a teacher who has been teaching for 30 or more years will be able to retire and collect a partial retirement at the end of those 30 years. This will allow them to collect the retirement and will allow no fiscal impact.

Representative Driscoll introduced Elton Hendrickson representing Teacher's Retirement Board.

Mr. Hendrickson stated the IRS has legislation on the books that states all retirement systems must meet their standards before they will be qualified. He stated most of the states have taken the position of forget IRS so they were not concerned about it. However, the IRS did go into Missouri and did give them a limited number of days to get their plan qualified or they would be disqualified. They were retained by the Teachers' Retirement to get this into a qualified plan.

A plan was submitted to the IRS. You will find that the changes in the bill have been put in by the IRS. They have been assured that if this bill does pass it will be deemed as a qualified plan. Page 3 provides for part-time persons. In determining the benefits you must use at least a 3-year average period. This also provides that if someone becomes disabled his earnings will be used to determine his salary. On page 5 full-time services is more clearly defined than it has been in the past. It does provide if a person works a normal working period then they will get credit for one year. Part-time service is anything less than 9 months. On page 24-25 this is a change that can have an impact on the system but it is

a minor impact. They have to have a child under the age of 18 and must be retired. It is their findings that there will be a very minimal cost under this provision.

He stated these are most of the changes they needed to put in before they could get approval of the plan. With the passage of this bill the IRS will take the position that this is a qualified plan.

Senator Devine asked what is the definition of a part-time teacher?

Mr. Hendrickson stated by this bill it will be someone who works less than 9 months of a year.

Senator Jergeson stated he does a little bit of student teaching. Does he have to elect to come under this system?

Mr. Hendrickson stated if you work 30 days, you are under it.

Chairman Towe asked on page 11, lines 5-9, does this mean that we would not be able to provide that the monies in the retirement system can be invested in the State of Montana?

Mr. Hendrickson stated if that wording were put in it might be qualified.

Hearing closed on HB 765.

HOUSE BILL 745.

Representative Harold Gerke, District 62, recommended that the committee hang on to the bill pending the outcome of House Bill 122. This bill was introduced because they felt it should go along with HB 122. He stated if it was agreeable with the committee he would like to research this and then come back at a later date. He stated he didn't feel they needed the bill but there will be others who feel they do.

Al Samson stated they have no problem with holding the bill for further study. He feels there may be a problem if the bill does die. What will happen to the pension systems in Butte and elsewhere?

Dan Mizner stated if the bill goes through as is, page 2, line 22, this will put the pension laws affecting Lewistown and Glasgow immediately into second class cities. He would like this amended to 7500 instead of 5000. The same for page 3, lines 3 and 8. On page 3, line 9, this would be changed to 2500 and this would automatically become a third class city.

Chairman Towe stated they would not take action on the bill until they heard from Representative Gerke. They will not have another hearing on this bill but will hear Mr. Gerke before they take action.

Hearing Closed on HB 745.

MINUTES OF THE MEETING
SENATE STATE ADMINISTRATION COMMITTEE
MARCH 25, 1977

The meeting was called to order by Senator Towe, Chairman at 4:20 p.m. in Room 410 of the Capitol Building. Committee members present were Senators Towe, Brown, Story, Rasmussen, Roskie, Jergeson, Blaylock, and Devine.

The following bills were discussed: Appointments
HB 741
HB 765
HB 745
HB 794
HB 719
HB 263
HJR 20

Discussion was held regarding the appointment of Mr. Lackman as Commissioner of Agriculture. Senator Brown presented a proposal regarding confirmation of the appointment (attached #1).

Senator Story moved to reconsider the Lackman appointment. THE MOTION CARRIED WITH SENATORS DEVINE AND RASMUSSEN VOTING NO.

Senator Jergeson moved to hold the appointment until the first of April and see what alternative the Governor would submit. THE MOTION FAILED (SEE ATTACHED ROLL CALL VOTE #1).

A straw vote was taken on the possibility of asking for the appointme to be set until April 1, 1979 and failed.

Senator Devine moved Mr. Lackman be confirmed. THE MOTION FAILED ON A ROLL CALL VOTE (SEE ATTACHED ROLL CALL VOTE #2).

Senator Jergeson asked for a straw vote to determine if there is support for asking the Governor to set the appointment for a date certain this year. The straw vote was affirmative.

HOUSE BILL 741

Senator Jergeson moved HB 741 Be Concurred In. TTHE MOTION CARRIED WITH SENATOR STORY VOTING NO.

HOUSE BILL 765

Senator Devine moved House Bill 765 Be Concurred In. THE MOTION CARRIED UNANIMOUSLY.

HOUSE BILL 745

Senator Blaylock moved the amendments on the attached committee rep THE MOTION CARRIED UNANIMOUSLY.

Senator Blaylock moved House Bill 745 Be Concurred In As Amended. MOTION CARRIED UNANIMOUSLY.

HOUSE BILL NO. 765

INTRODUCED BY DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE TEACHERS' RETIREMENT SYSTEM AND TO ENSURE FAVORABLE ADVANCE DETERMINATION FROM THE UNITED STATES INTERNAL REVENUE SERVICE WITH RESPECT TO QUALIFIED TAX STATUS; AMENDING SECTIONS 75-6201, 75-6205, 75-6206, 75-6207, 75-6208, 75-6209, 75-6212, 75-6214, AND 75-6216, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-6201, R.C.M. 1947, is amended to read as follows:

"75-6201. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Retirement system" means the teachers' retirement system of the state of Montana provided for in section 75-6202.

(2) "Retirement board" means the retirement system's governing board provided by section 82A-212.

(3) "Employer" means the state of Montana, trustees of any district, or other agency or subdivision of the state which employs a person who is designated a member of the retirement system.

(4) "Member" means any person who has an individual account in the annuity savings fund; an active member is any person included under the provisions of section 75-6209; an inactive member is any person included under the provisions of section 75-6210.

(5) "Beneficiary" means any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by the retirement system.

(6) "Service" means the performance of such instructional duties or related activities as would entitle the person to active membership in the retirement system under the provisions of section 75-6209.

(7) "Prior service" means employment of the same nature as service defined in subsection (6) of this section but rendered before September 1, 1937.

(8) "Creditable service" is that service defined by section 75-6212.

(9) "Regular interest" means interest at four per cent (4%) per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of section 75-6206.

(10) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to his individual account in

HB 0765/02

the annuity savings fund, together with interest. Regular interest shall be computed and allowed to provide a benefit at the time of retirement.

(11) "~~Earnable~~ Earned compensation" means the full ~~rate of the~~ compensation, pay, or salary ~~that would be payable to a member if he worked the full normal working time. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money~~ actually paid to a member and reported to the retirement system, including irregular forms of remuneration, such as amounts paid for special duty or under a salary reduction agreement, and amounts paid in kind, such as maintenance. The employer shall fix the value of any compensation paid in kind. The earned compensation of a member who had less than 3 consecutive years of full-time service during the 5 years preceding his retirement is the compensation, pay, or salary which he would have earned had his part-time service been full-time service. The earned compensation of a member who is awarded a disability retirement allowance prior to the completion of a full year is the compensation, pay, or salary which he would have received had he completed the full year.

(12) "Average final compensation" means the average of the ~~earnable~~ earned compensation of ~~any three (3) consecutive years on which contributions have been made by~~

~~the member~~ a member during the 3 consecutive years of full-time service which yield the highest average and on which contributions have been made as required by 75-6-307(1)(a).

(13) "Annuity" means the payments made to a beneficiary for life which are derived from a member's accumulated contributions. All annuities shall be paid in equal monthly installments. The retirement board may make an annual payment to the beneficiaries of the difference between the rate of interest used in calculating the benefit from the annuity reserve fund and the interest earned on investments.

(14) "Pension" means the payments made to a beneficiary for life which are paid into the pension fund derived from money accumulated by employers. All pensions shall be paid in equal monthly installments.

(15) "Retirement allowance" means the annuity plus the pension.

(16) "Annuity reserve" means the present value of all payments to be made on account of a member's annuity and computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(17) "Pension reserve" means the present value of all payments to be made on account of a pension and computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(18) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(19) "Former retirement system" means the retirement system established under sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935.

(20) "Full-time service" means service which is full-time and which extends over a normal academic year of at least 9 months. With respect to those members employed by the office of the superintendent of public instruction, any other state agency or institution, or the office of a county superintendent, "full-time service" means service which is full-time and which totals at least 9 months in any one year.

(21) "Part-time service" means service which is less than full-time or which totals less than 9 months in any one year. Part-time service shall be credited in the proportion that the actual time worked bears to full-time service."

Section 2. Section 75-6205, R.C.M. 1947, is amended to read as follows:

"75-6205. Powers and duties. The retirement board shall have the power and it shall be its duty to administer and operate the retirement system within the limitations prescribed by this Title. To this end, it shall be the duty

of the retirement board to:

(1) establish rules and regulations necessary for the proper administration and operation of the retirement system;

(2) elect a chairman from its membership;

(3) appoint a secretary who may be one (1) of its members;

(4) employ technical or administrative employees who are necessary for the transaction of the business of the retirement system;

(5) approve or disapprove all expenditures necessary for the proper operation of the retirement system;

(6) keep a record of all its proceedings which shall be open to public inspection;

(7) publish a biennial report by the first day of January of each year the legislative assembly meets that shall report in detail the fiscal transactions for the two (2) fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of the retirement system and the last fiscal year balance sheet showing the assets and liabilities of the retirement system, and submit such biennial report to the governor and furnish copies to the legislative assembly;

(8) when the retirement board deems it necessary, designate a medical board to be composed of three

physicians, who are not eligible to participate in the retirement system to investigate and report to the retirement board on all medical matters related to the administration of the retirement system;

(9) keep in convenient form that data which is necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system;

(10) designate an actuary to assist the retirement board with the technical actuarial aspects of the operation of the retirement system, which shall include establishing mortality and service tables and making an actuarial investigation at least once every five (5) years into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system;

(11) prepare an annual valuation of the assets and liabilities of the retirement system;

(12) determine the eligibility of a person to become a member of the retirement system in accordance with the provisions of section 75-6209;

(13) prescribe a form for membership application which will provide adequate and necessary information for the proper operation of the retirement system;

(14) adopt policies for the determination of creditable service in the retirement system implementing the

following guidelines:

(a) One (1) year's creditable service shall be awarded for each year of full-time service, outside of vacation periods, but no more than one (1) year's creditable service shall be awarded for service during the same school fiscal year.

~~(b) A proportion of a year's creditable service shall be allowed for part-time service. An equitable proration of a year's creditable service shall be awarded for part-time service.~~

~~(c)~~(b) Not more than one (1) month's creditable service shall be awarded for one (1) or more continuous months of absence without pay.

(15) grant retirement, disability, and other benefits under the provisions of section 75-6208;

(16) annually determine the rate of regular interest as prescribed in section 75-6206;

(17) establish and maintain the funds of the retirement system in accordance with the provisions of section 75-6207; and

(18) perform such other duties and functions as are required to properly administer and operate the retirement system."

Section 3. Section 75-6206, R.C.M. 1947, is amended to read as follows:

"75-6206. Financial administration of moneys. The retirement board shall be the trustees of all moneys collected for the retirement system and as such trustees they shall provide for the financial administration of the moneys in the following manner:

(1) The moneys shall be invested and re-invested by the state board of of investments.

(2) The retirement board annually shall establish the rate of regular interest.

(3) The retirement board annually shall divide among the several funds of the retirement system an amount equal to the average balance of such funds during the preceding fiscal year multiplied by the rate of regular interest. In accordance with the provisions of subsection (3)(e) of section 75-6207, the amount to be credited to each fund shall be allocated from the interest and other earnings on the moneys of the retirement system actually realized during the preceding fiscal year, less the amount allocated to the expense fund under the provisions of subsection (5)(b) of section 75-6207.

(4) The state treasurer is the custodian of the collected retirement system moneys and of the securities in which said moneys are invested. All expenditures from such moneys shall be made only upon claims signed by two (2) persons designated by the retirement board. A properly

attested copy of a resolution of the retirement board designating such persons and bearing on its face specimen signatures of each person shall be filed with the department of administration as his authority for approving such claims.

(5) Except as herein provided no member of the retirement board nor any of its employees shall have an interest, direct or indirect, in the gains or profits of any investment of moneys of the retirement system. No member of the retirement board nor any of its employees shall directly or indirectly for himself or as an agent in any manner use the moneys or deposits of the retirement system except to make such current and necessary expenditures as are authorized by the retirement board. No member of the retirement board nor any of its employees shall become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the retirement system.

(6) The retirement board may in its discretion transfer the amount in the annuity savings account of an inactive member to the pension accumulation fund if the account has been dormant for a period of seven (7) years. No right of the member shall be jeopardized by such transfer and the amount shall be transferred back to the member's annuity savings account upon his request.

(7) All the funds established by section 75-6207,

except the expense fund, shall be accounts in the agency fund of the treasury fund structure of the state. The expense fund shall be an account in the earmarked revenue fund of the same treasury fund structure.

(8) The assets of the retirement system may not be used for or diverted to any purpose other than for the exclusive benefit of the members and their beneficiaries and for paying the reasonable expenses of administering the retirement system.

(9) Upon termination of the retirement system, termination of employment of a substantial number of members which would constitute a partial termination of the retirement system, or complete discontinuance of contributions to the retirement system, the retirement allowance accrued to each member directly affected by such occurrence becomes fully vested and nonforfeitable to the extent funded."

Section 4. Section 75-6207, R.C.M. 1947, is amended to read as follows:

"75-6207. Method of financing. The retirement board shall establish and maintain the following funds in which all of the assets of the retirement system shall be credited according to the purpose for which the assets are held.

(1) Annuity savings fund. The annuity savings fund shall be a fund in which the contributions from the members

to provide for their annuities shall be accumulated in individual accounts for each member. Contributions to and payments from the annuity savings fund shall be made in the following manner.

(a) Each employer shall deduct from the compensation of each active member on each and every payroll of such member for each and every payroll period on and subsequent to the date on which such member became a member an amount equal to six and one-eighth percent (6 1/8%) of such member's ~~earnable~~ earned compensation~~, but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty (60) and rendered thirty (30) years of creditable service if such member elects not to contribute~~.

(b) Such deductions shall be made notwithstanding that the minimum compensation provided by law for a member may be reduced thereby. Every member shall be deemed to consent and agree to the deductions prescribed by this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by the retirement system.

(c) In addition to the contributions deducted from compensation and subject to the approval of the retirement

board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to ~~the~~ any accumulated contributions which he has previously withdrawn, plus interest in the amount the contributions would have earned had the contributions not been withdrawn~~, or any part thereof, which he had previously withdrawn~~. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death shall be paid from the annuity savings fund~~, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the pension accumulation fund~~. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

(2) Annuity reserve fund. The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

(3) Pension accumulation fund. The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

(a) Each employer shall pay into the pension accumulation fund an amount equal to six and one-fourth percent (6 1/4%) of the ~~earnable~~ earned compensation of each member employed during the whole or part of the preceding payroll period.

(b) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of section 75-7204.

(c) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system or the Montana state deaf and blind school, the legislative assembly shall appropriate to each employer an adequate amount to allow the payment of the employer's contribution.

(d) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption

of a county budget and for payments under such budget.

(e) All interest and other earnings realized on the moneys of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, and the annuity reserve fund shall be transferred to the respective funds from the pension accumulation fund.

(f) All pensions and benefits in lieu thereof, including pensions payable under section 75-6218, shall be paid from the pension accumulation fund.

(g) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

(4) Expense fund. The expense fund shall be the fund to which shall be credited all moneys for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances or other benefits. The retirement board shall determine annually the amount required for the expense fund to defray the administrative expense in the ensuing fiscal year and shall credit such an amount to the expense fund out of the

pension accumulation fund from interest and other earnings realized on the moneys of the retirement system."

Section 5. Section 75-6208, R.C.M. 1947, is amended to read as follows:

"75-6208. Benefits. The retirement, disability and other benefits of the retirement system shall be granted on the basis of the following provisions:

(1) Superannuation member retirement:

(a) ~~Any~~ A member ~~with five~~ who has at least ~~(5)~~ full years of creditable service, ~~the~~ whose last ~~five (5)~~ years of ~~which shall have been~~ creditable service were in this state, and who has attained the age of ~~sixty (60),~~ or ~~who~~ has ~~completed thirty~~ been credited with full-time or part-time service ~~totaling at least~~ IN ~~(30)~~ OR MORE years ~~of creditable service,~~ may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

(b) Any member in service who has attained the age of seventy (70) years during any school year shall be retired on the first day of September following his seventieth birthday, except that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy (70) upon the recommendation of the president of the employing unit to the board of regents. Members over seventy (70) years of age

shall not: (1) be allowed creditable service for services rendered after the end of the school year in which the age of seventy (70) is attained, (2) contribute to the retirement system after the end of such school year, and (3) have the compensation received after the end of such school year used in computing average final salary. Initial employment of teachers in the Montana university system beyond the age of seventy (70) may be made upon the recommendation of the president of the employing unit and the approval of the board of regents but such employees shall be denied membership in the retirement system.

(c) Any retired member may be employed as a part-time or substitute teacher in Montana and may earn, without loss of retirement benefits, the greater of an amount not to exceed one-fourth ~~(1/4)~~ of his average final compensation ~~without loss of retirement benefits~~ and one-fourth of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board.

(2) Allowance for superannuation retirement. Upon superannuation retirement a member shall receive a retirement allowance ~~which shall consist~~ consisting of:

(a) A pension which, together with an annuity, ~~shall provide~~ provides a retirement allowance equal to ~~one-half (1/2) of his average final compensation provided his~~

~~creditable service is at least thirty (30) years, otherwise a pension together with his annuity of one-sixtieth (1/60)~~ one-sixtieth of his average final compensation multiplied by the number of years of creditable service.

(b) The minimum annual retirement allowance for a member who has ~~completed thirty (30)~~ or more years of creditable service shall be twenty-four hundred dollars ($2,400) and the minimum retirement allowance for a member whose creditable service is less than thirty (30) years shall be based on the proportionate amount of twenty-four hundred dollars ($2,400) that his service bears to thirty (30) years of service.

~~(c) On July 1, 1975, and July 1, 1976, every beneficiary receiving a retirement allowance shall be entitled to an increase in his monthly retirement allowance of one-fourth of one percent (.25%) multiplied by the number of months he has been retired during the preceding fiscal year.~~

~~(d)~~(c) Any member who has completed five (5) years of creditable service, the last five years of which shall have been in this state, and who has attained the age of fifty-five (55) may retire from service and be eligible to an early retirement allowance if he files with the retirement board his written application setting forth the fact of his retirement. The early retirement allowance

shall be determined as prescribed in subsections (a) through (f) above, with the further provision that such allowance will be reduced by one half of one percent (.5%) multiplied by the number of months which the retirement date precedes the date on which he would have retired had he attained sixty (60) years of age or had he completed thirty (30) years of creditable service.

~~(e)~~(d) In the event of death of a member after retirement, a death benefit of five hundred dollars ($500) will be payable to his designated beneficiary.

~~(f)~~(e) In the event payments made to an annuitant do not equal the amount of the member's accumulated contributions prior to the annuitant's death, the difference between the total retirement allowance paid and the amount of the accumulated contributions shall be paid to the beneficiary.

(3) Disability member retirement:

(a) Upon the application of an active member or of his employer, any active member who has five (5) or more years of creditable service may be retired by the retirement board the month immediately following the month in which his disability caused his retirement upon filing an application for a disability retirement allowance. Before any member shall be eligible for a disability retirement, the board of the retirement system shall certify that he is mentally or

physically incapacitated for the further performance of his duties, that such incapacity is likely to be permanent and that he should be retired.

(b) Re-examination of beneficiaries retired on account of disability. Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three (3) year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty (60) to undergo a medical examination by the medical board or a physician or physicians designated by the medical board. The examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty (60) refuse to submit to at least one (1) medical examination in any year by the medical board or its representative, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his disability pension may be revoked by the retirement board.

(c) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his

average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be changed later, the amount of his pension may be further modified but the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

(d) Should a disability beneficiary under age sixty (60) be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, and he shall again become an active member of the retirement system. Any prior service certificate on the basis of which his service was computed at the time of his disability retirement shall be restored to full force and effect an addition upon his subsequent retirement, and he shall be credited with all his subsequent service as a member. Should he be restored to active service on or after the attainment of the age of fifty-five

(55) years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new member.

(4) Allowance for disability retirement. Upon retirement for disability, a member shall receive a superannuation allowance prescribed under subsection (2) above if he is eligible; otherwise he shall receive a disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement.

(b) A pension which together with his annuity, shall provide a total retirement allowance equal to one sixtieth (1/60) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (1/4) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (1/4) of his average final compensation, provided, however, that no such allowance shall exceed one sixtieth (1/60) of his average final

compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumulated contributions prior to his death, the difference between the total retirement allowance paid and the amount of the accumulated contributions of the member shall be paid to the beneficiary.

(5) Withdrawal of accumulated contributions. Any inactive member electing to do so or any person whose membership terminates may withdraw his accumulated contributions to his annuity account in the retirement system in accordance with the following provisions:

(a) An inactive member under the provisions of subsections (1) or (3) of section 75-6210 may elect, without right of revocation to withdraw his accumulated contributions, and if he does not withdraw his accumulated contributions he shall thereafter remain an inactive member of the retirement system with the right to qualify for the benefits of the retirement system;

(b) Upon recovery from a disabling illness or separation from the armed forces, any person qualifying as an inactive member under the provisions of subsection (2) of section 75-6210 may withdraw his accumulated contributions

unless he returns to active membership.

(c) Any person whose membership terminates under the provisions of subsection (4) of section 75-6211 may withdraw his accumulated contributions.

(6) Allowances for death of member.

(a) Should a member die before retirement the amount of the member's accumulated contributions shall be paid to his estate or such person as he may have designated in the manner prescribed by the retirement board which shall be filed with the board prior to the member's death.

(b) In lieu of benefits provided in (a) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. The monthly life annuity shall be determined as prescribed in subsections (2) (a) through (2) (h) assuming the member had elected option A as prescribed in subsection (7) (a) below. In addition, if the deceased member had five (5) or more years of creditable service and was an active member in the state of Montana within one (1) year prior to his death, a lump sum death benefit of $500 will be payable to his designated beneficiary.

(c) If the a deceased member had five (5) or more years of creditable service and was an active member in the state of Montana within one (1) year prior to his death or

was retired at the time of his death, the sum of one hundred dollars ($100) per month shall be paid to each minor child of the deceased member until such child reaches his eighteenth (18th) birthday.

(7) Optional allowances. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided. This benefit shall be referred to as the normal form of retirement allowance. In lieu of normal form of retirement allowance, the member may elect an optional allowance which would be the actuarial equivalent at the time of his retirement or disability allowance and would provide an allowance payable throughout his lifetime and upon his death continue to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement with the provision that:

(a) Option A. The optional allowance will continue to the member during his lifetime and upon his death, continue throughout the lifetime of his designated beneficiary; or

(b) Option B. The optional allowance will continue

throughout his lifetime and upon his death, one-half (1/2) of his optional allowance will be continued throughout the lifetime of his designated beneficiary; or

(c) Option C. The optional benefit will continue throughout his lifetime and upon his death, two-thirds (2/3) of the optional allowance shall be continued throughout the lifetime of his designated beneficiary; or

(d) Option D. The optional allowance shall continue while both the member and his designated beneficiary are living and upon the death of either, one-half (1/2) of the optional allowance shall be continued throughout the lifetime of the survivor; or

(e) Option E. The optional allowance will be payable while both the member and his designated beneficiary are living and upon the death of either, two-thirds (2/3) of the optional allowance shall be continued throughout the lifetime of the survivor; or

(f) Option F. Some other benefit or benefits shall be paid either to the member or his surviving designated beneficiary. The provisions of this retirement allowance shall be approved by the retirement board.

(8) There may not be any duplication of benefits to a member or beneficiary due to there being more than one period of service of the member."

Section 6. Section 75-6209, R.C.M. 1947, is amended to

read as follows:

"75-6209. Active membership. Any of the following persons shall be active members of the retirement system unless otherwise provided by this Title, except for those persons who became eligible for membership on the first day of September, nineteen hundred and thirty-seven (1937) or on the first day of September, nineteen hundred and thirty-nine (1939) and who elected not to be a member under the provisions of the law at that time:

(1) Any person who is a teacher, principal or district superintendent as defined under the provisions of section 75-6101.

(2) Any person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system.

(3) Any person employed in an instructional services capacity by the office of the superintendent of public instruction, the office of a county superintendent, a public institution of the state of Montana, the Montana state deaf and blind school, or a district.

(4) Any person who shall have elected not to become a member of the retirement system and is re-entering service in a capacity prescribed by subsections (1), (2) and (3) above.

(5) Any person who shall have elected not to become a

member of the retirement system, who has been continuously employed in a capacity prescribed by subsection (1), (2) or (3) above since the time of such election and who may thereafter elect to become a member of the retirement system.

Any person who is designated a member by this section shall be employed ~~full-time, outside of vacation periods,~~ in the capacity prescribed for his eligibility~~, except that when a person is employed less than full time, the retirement board may allow such person to become a member of the retirement system~~ for at least 30 days in any fiscal year. The compensation for the creditable service of any person who is designated a member by this section shall be totally paid by an employer as defined herein~~, except that when this requirement is not satisfied, the retirement board may allow such a person to become a member of the retirement system~~. At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his eligibility for membership. All persons in similar circumstances shall be treated alike."

Section 7. Section 75-6212, R.C.M. 1947, is amended to read as follows:

"75-6212. Membership application and creditable service. Whenever a person becomes ~~eligible for membership in~~ a member of the retirement system as required by 75-6209,

he shall ~~apply--for--such--membership--on--the~~ complete an application form prescribed by the retirement board. The creditable service of a member ~~shall--begin~~ begins on the ~~receipt--of--the--membership--application--by--the--retirement board~~ date of his employment in a capacity prescribed for his eligibility in 75-6209 and ~~shall--accumulate~~ accumulates to the member's credit on the basis of the retirement board's policy governing creditable service.

The creditable service of any member shall include the following:

(1) each year of service of a member for which contributions to the retirement system were deducted from his compensation under the provisions of chapter 87, Laws of 1937, chapter 215, Laws of 1939, this act, and their subsequent amendments, except that no credit shall be awarded for those years of service for which the contributions have been withdrawn and not replaced; plus

(2) any out-of-state employment service awarded by the retirement board under the provisions of section 75-6213; plus

(3) any service awarded by a prior service certificate issued under the provisions of chapter 87, Laws of 1937, chapter 215, Laws of 1939 and their subsequent amendments, or under the provisions of section 75-6213; plus

(4) the creditable service established by the

retirement board under the provisions of this section shall be final and conclusive for the purposes of the retirement system unless, at any time, the retirement board discovers an error or fraud in the establishment of the creditable service, in which case the retirement board shall re-establish the creditable service; plus

(5) any service awarded for employment while on leave under section 75-6213."

Section 8. Section 75-6214, R.C.M. 1947, is amended to read as follows:

"75-6214. Duties of employer. It shall be the duty of each employer to:

(1) deduct the contribution of each member employed by him at the rate prescribed by subsection (1) of section 75-6207 from each salary payment for each payroll period, and transmit the contribution each month to the secretary of the retirement board;

(2) pay to the secretary of the retirement board the employer's contribution prescribed by subsection (3) of section 75-6207 at the time that the employee contributions are transmitted to the secretary of the retirement board;

(3) keep records and, as required by the retirement board, furnish information to the retirement board that is required in the discharge of the retirement board's duties;

(4) upon the employment of any person who is required

to become a member of the retirement system, inform him of his rights and obligations related to the retirement system. Each person accepting such employment shall be deemed to consent to membership and to the withholding of the contributions from his compensation;

(5) at the request of the retirement board, certify the names of all persons who are eligible for membership or are members of the retirement ~~board~~ system; and

(6) notify the retirement board of the employment of a person eligible for membership and forward his membership application to the retirement board."

Section 9. Section 75-6216, R.C.M. 1947, is amended to read as follows:

"75-6216. Guarantee by state. Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves in the annuity reserve fund ~~and of pension reserves in the pension reserve fund~~ as provided for in this Title and the payment of all annuities, pensions, refunds, and other benefits granted under the retirement system are hereby made obligations of the state of Montana."

Section 10. Effective date. This act is effective on its passage and approval.

-End-